

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-1268

CHARLES W. PENLAND, SR.; MARY PENLAND,
Plaintiffs - Appellants,

v.

UNITED STATES DISTRICT COURT, at Greenville, South Carolina;
JERRY SAAD, Court appointed receiver in case number 7-05-cr-
710,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Greenville. Henry M. Herlong, Jr., Senior
District Judge. (6:07-cv-03284-HMH)

Submitted: October 18, 2011 Decided: November 17, 2011

Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Charles W. Penland, Sr., Mary Penland, Appellants Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles W. Penland, Sr., a federal inmate, and his wife, Mary Penland, appeal the district court's order dismissing without prejudice the civil action they filed against the United States District Court for the District of South Carolina and Jerry Saad, the receiver appointed in Charles Penland's criminal case. In their complaint, the Penlands sought money damages and declaratory relief.

The district court referred this case to a magistrate judge pursuant to 28 U.S.C.A. § 636(b)(1)(B) (West 2006 & Supp. 2011). The magistrate judge recommended that the complaint be dismissed on various grounds and advised the Penlands that the failure to file specific objections to this recommendation would waive appellate review of a district court order based upon the recommendation. Although the Penlands did object to the magistrate judge's recommendation, their objections did not specifically challenge the legal conclusions set forth therein, which the district court subsequently adopted.

The timely filing of specific objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned of the consequences of noncompliance. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). As we

explained in United States v. Midgette, 478 F.3d 616, 622 (2007), "to preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection." This the Penlands did not do. Accordingly, we conclude the Penlands have waived appellate review of the district court's order by failing to file specific objections to the dispositive aspects of the magistrate judge's recommendation, despite having received proper notice. We thus affirm the judgment of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED